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6 Attorney for Defendant,  
7 **John A.B. Atoigue**

**FILED**  
DISTRICT COURT OF GUAM

OCT 26 2005 *JP*

**MARY L.M. MORAN**  
**CLERK OF COURT**

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE TERRITORY OF GUAM**

10 UNITED STATES OF AMERICA, )

MAGISTRATE CASE NO.: 05-00017

11 )  
12 Plaintiff, )

13 vs. )

**DEFENDANT'S STATEMENT OF  
POSITION RE: PROPOSED  
PRE-SENTENCE REPORT**

14 )  
15 JUAN SAN NICOLAS CHARGULAF )  
16 AND JOHN A.B. ATOIGUE, )

17 Defendants. )  
18 )

19 **COMES NOW**, Defendant, John A.B. Atoigue, by and through undersigned legal counsel  
20 and hereby submits his statement of position with respect to the proposed pre-sentence report as  
21 required by Federal Rules of Criminal Procedure, Rule 32 and the United States District Court of  
22 Guam, General Order, 98-00002.

23  
24 With the exception of modifying in part Page 2, Paragraph 8 of the sentencing  
25 recommendation, Defendant has no objection to the proposed pre-sentence report. Defendant  
26 requests amended of Page 2, Paragraph 8 to include "entering military establishments for work  
27 related purposes". Defendant understands that his request may need to be forwarded to the Wing  
28 Commander, Andersen Air Force Base and Naval Commander for the United States Naval Base,

3 Agat, Guam.

4 Pursuant to U.S. District Court of Guam's General Order, Sentencing Procedures; Defendant  
5 must file a response to (d)(1) and (d)(2) as stated below:

6 (d)(1), All sentencing factors, facts and other matters  
7 material to sentencing that remain in dispute,  
8 including a statement, and calculation if appropriate,  
9 showing how the dispute affects the calculation of the  
applicable guidelines range, and;


10 (d)(2), Whether an evidentiary hearing is requested  
11 and, if so, an estimate of the time required for such  
12 hearing and summary of the evidence to be produced.  
13 Upon receipt of any such objections, the probation  
14 officer shall conduct any further investigation and  
make any revisions to the presentence report that are  
deemed necessary.

15 Defendant has no objection and hereby adopts the U.S. Probation Office analysis with respect  
16 to requirements (d)(1) and furthermore, hereby waives the right to an evidentiary hearing as provided  
17 in (d)(2) of General Order 98-00002.

18  
19 Dated this 25th day of October, 2005.

20 Respectfully submitted,

21  
22  
23 By:

  
24 **MARK S. SMITH, ESQ.**  
25 Attorney for Defendant, *John A.B. Atoigue*